

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT
OF TENNESSEE, NASHVILLE DIVISION

JUDY A. FOSTER,

Plaintiff,

vs.

SPRING MEADOWS HEALTH
CARE CENTER, LLC,

Defendant.

Civil Action Case No. 3:11-cv-01216
Judge Haynes/Magistrate Bryant
JURY DEMAND

MOTION TO DISMISS

On the
In the nearness and
authorities cited in Plaintiff's
response (DIE-16), this
motion is DENIED See

Comes now the Defendant, SPRING MEADOWS HEALTH CARE CENTER, LLC, by Tuttle, V.
and through counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Motno
moves this Court to dismiss the Plaintiff's claim under 29 U.S.C. § 621 for discrimination in Gov't of
employment based upon age, as the Plaintiff's Complaint fails to state a claim upon which relief Nashville,
may be granted. In support hereof, Defendant states as follows: 474 F.3d
307, 317
(6th Cir
2007)

1. Plaintiff has failed to allege facts which would show direct age discrimination or
support a *prima facie* case of age discrimination. Specifically, Plaintiff has altogether failed to
allege that she was replaced by someone outside of the protected class.

2. Defendant contemporaneously files a Memorandum of Law in support of this Motion.

Wherefore, premises considered, the Defendant prays that the Court find that the
Plaintiff's 29 U.S.C. § 621 claim fails to state a claim upon which relief may be granted and
should be dismissed with prejudice.

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5-2-12